

REMARKS

Applicant respectfully requests reconsideration and allowance of claims 1-22 and 26-31, which are pending in the above-identified application. Claims 1-22 and 26-30 stand rejected, and claims 23-25 stand cancelled. Applicant has amended claim 15, and has added new claim 31 herein. No new matter has been added. Support for the amendments may be found in at least FIG. 4 and page 11, lines 11-14 of the specification of the instant application. In view of the following discussion, Applicant submits that all pending claims are in condition for allowance.

Rejection Under 35 U.S.C. § 103:

At numbered part 2 of the Office Action, the Examiner has rejected claims 1, 3, 8, 15, 16, 18, 20, and 26-30 under 35 U.S.C. § 103 (a) as being unpatentable over Pei (U.S. Patent no. 5,406,620, hereafter Pei) in view of Alston et al. (U.S. Patent No. 7,376,126, hereafter Alston). Applicant respectfully traverses the Examiner's claim rejections, and in view of the amendment to claim 15, Applicant submits that the Examiner's subject rejection of claim 15 has been overcome.

Independent claim 1 of the instant application recites, in part, "assigning to each of the more than one communications carrier in said network a particular port within said one originating gateway, each assigned particular port being different from each other". Applicant respectfully contends that the prior art does not disclose or suggest this feature. Independent claims 8 and 16 of the instant application recite similar features, are patentable for the same reasons as claim 1, and are thus not discussed separately in this section.

Applicant respectfully acknowledges the Examiner's concession at page 3 of the Office Action that Pei does not teach that the originating gateway comprises more than one port where each port is different from each other and each port is allocated to a plurality of respective carriers.

The Examiner alleges that Alston teaches that a broadband gateway has individual ports assigned to each of a plurality of messaging devices (*see* col. 10, lines 5-7 of Alston), and that each one of those ports is unique (*see* col. 3, lines 17-18 of Alston). The Examiner further alleges that it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of having multiple ports assigned to a gateway and each port

is different than the other, as taught by Alston, into the Pei device in order to expand and increase the Pei system's diversity. Applicant respectfully disagrees with the Examiner that there is motivation to make such a combination of the cited prior art.

Applicant respectfully submits that there is no motivation to modify the Pei system in view of the Alston teachings as alleged to arrive at the invention of independent claim 1 of the instant application for a plurality of reasons. First, Applicant submits that one skilled in the art would not modify the Pei system to include ports, as taught by Alston, and to assign a unique port to each carrier as alleged to arrive at the invention of independent claim 1 of the instant application because such a modification would not expand and increase the diversity of the Pei system. As aforementioned, Pei does not disclose or suggest an originating gateway having a plurality of ports where each port is assigned to each of the more than one carriers and each assigned port is different from each other. Pei merely teaches that a carrier 30 may send a call to an originating gateway switch 100 via a trunk subgroup 115. (See col. 3, lines 41-52 of Pei). However, Pei does not disclose or suggest how the trunk group 115 structurally interacts with the originating gateway 100.

For the sake of argument only, assuming that one skilled in the art would modify the Pei system to include an originating gateway switch 100 having a plurality of ports (*e.g.*, three ports numbered 1-3) and to include more than one carrier (*e.g.*, three carriers numbered 1-3) where each carrier was assigned a unique port in the originating gateway switch 100 (*e.g.*, port 1 is assigned to carrier 1, port 2 is assigned to carrier 2, and port 3 is assigned to carrier 3) (which Applicant does not concede and maintains that one skilled in the art would not so modify), each carrier is limited to only its respective assigned port of the plurality of ports. Indeed, carrier 1 is limited to using its assigned port 1; carrier 2 is limited to using its assigned port 2; and carrier 3 is limited to using its assigned port 3. As such, the alleged modification would not expand and increase the diversity of the Pei system, but would rather limit the diversity and functionality of the Pei system, because each of those carriers is limited to using its assigned port and cannot utilize the non-assigned ports of the plurality of ports. Indeed, making the alleged modification to the Pei system is illogical as the modification adds unnecessary structural complexities to the Pei system and limits/narrows the Pei system's diversity and functionality. Accordingly, those skilled in the art would be deterred from making the alleged modification to the Pei system.

Second, when properly considering the cited prior art as a whole, one skilled in the art would not modify the Pei system to include ports as taught by Alston, because the entire purpose of the teachings of Alston, especially with regard to assigning ports to each device, is to deal with privacy concerns. Indeed, “[p]r~~iv~~acy concerns create the need to avoid sending a particular data message to multiple terminal messaging devices or users connected to on broadband gateway”. (See col. 9, line 58 to col. 10, line 41 of Alston, emphasis added). In contrast, the Pei system does not send calls to more than one terminating carrier of a terminating country connected to the gateway switch 100, but rather sends the call to the appropriate terminating carrier within the predetermined terminating country. (See abstract; col. 1, line 60 to col. 2, line 51; and col. 3, line 11 to col. 17, line 13 of Pei). As such, Pei is silent on any privacy concerns being related to its allocation of international transit traffic.

The applicable authority as to the issue of how much detail should be taken from a secondary reference in support of an obviousness rejection is set out in MPEP §2145 (III):

“The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference. . . Rather, **the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art.**” *In re Keller*, 642 F.2d 413, 425, (CCPA 1981). See also *In re Sneed*, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983) (“[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review.”); and *In re Nievelt*, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973) (“Combining the teachings of references does not involve an ability to combine their specific structures.”).

However, **the claimed combination cannot change the principle of operation of the primary reference or render the reference inoperable for its intended purpose.** See MPEP § 2143.01. (Emphasis added).

MPEP §2145 (III) does not provide license to ignore express points of criticality within the secondary reference when selecting which teachings are to be relied upon in an obviousness rejection. Under the present facts, the significance of keeping in mind that “the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art” cannot be underemphasized. Additionally, a prior art reference must be considered in its entirety, i.e., as a whole, for what that references conveys to those skilled in the art. (See MPEP §2141.02(VI); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

The Alston reference makes clear to skilled artisans to use “the broadband gateway [that] has individual ports assigned to each of a plurality of messaging devices...so that a message could be sent to a particular device or user without being routed to each device or user in the premises.” (See col. 10, lines 5-12 of Alston). This was not just a fleeting comment by the inventor, but rather a primary objective informing the entire disclosure of Alston, including the specific structure disclosed to achieve the critical objective of dealing with privacy concerns. Thus, in order to adhere to the requirements of the applicable authority set out in MPEP §2145 (III), one must keep in mind what Alston would have suggested to those of ordinary skill in the art.

When considering the cited prior art as a whole, making the subject modification as alleged would not be suggested by the cited prior art because: (i) there are no privacy concerns in the Pei system that would lead one skilled in the art to consider the port teachings of Alston, which are designed to achieve the critical objective of dealing with privacy concerns as taught by Alston; and (ii) one skilled in the art would be deterred from making the alleged modification because such a modification adds inefficiencies/complexities and limits/reduces the diversity and functionality of the Pei system. As discussed above, the primary objective of the teachings of Alston is to provide ports and assign those ports to each of a plurality of messaging devices to avoid privacy concerns; a concern that is non-existent in the Pei system as explained above. This objective of Alston does not change, and must not be ignored as instructed by MPEP §2145 (III), merely because the Examiner does not cite to, or rely on, the “privacy” teachings of Alston when such “privacy” teachings of Alston are intertwined with the port teachings of Alston. Thus, when properly considering the Pei and Alston references as a whole, one skilled in the art would not look to the teachings of Alston to make any modifications, let alone the alleged modifications, to the Pei system, and would be deterred from making such modifications to the Pei system accordingly.

Third, the subject teachings of Alston do not enable one skilled in the art to make the alleged modification because Alston merely teaches a plurality of **devices** having ports assigned, but does not disclose or suggest **communications carriers**. Applicant contends that it is well known that a communications carrier is a company that supplies telecommunication services. In contrast, the “devices” referred to in Alston are end-user devices that consume telecommunication services, such as telephones 220 and 260 (see col. 10, line 21 of Alston) and

personal computer 240 (*see* col. 10, lines 31-32 of Alston). The technical complexities of simple end user devices differ greatly from those of communications carriers. Accordingly, the *devices* of Alston do not correspond to the *carriers* of claim 1 of the instant application, and one skilled in the art would not be enabled to make such a modification to the gateway switch 100 and carriers 40 of the Pei system.

In view of the above, when considering the Pei and Alston references as a whole, such teachings of Pei and Alston are not sufficient to render the pending claims as *prima facie* obvious. Indeed, the teachings of Pei and Alston, alone or in combination, fail to disclose or suggest “assigning to each of the more than one communications carrier in said network a particular port within said one originating gateway, each assigned particular port being different from each other” as recited in claim 1 of the instant application. Consequently, the teachings of Pei and Alston, alone or in combination, do not disclose or suggest, explicitly or implicitly, the similarly recited limitations of independent claims 8 and 16 of the instant application. Therefore, claims 1, 8 and 16 are patentable. As claims 3, 18 and 20 depend from claims 1 and 16, respectively, and recite additional patentable features, the subject dependent claims are, therefore, likewise patentable.

Amended independent claim 15 of the instant application recites, in part, “one receiver at a gateway for receiving incoming calls, said gateway comprising a plurality of ports, one or more of said plurality of ports operating to receive one or more of said incoming calls from preauthorized carriers or entities and one or more other ports of said plurality of ports operating to receive one or more additional calls of said incoming calls from unauthorized carriers or entities...and means for performing accounting for said incoming calls received on said one or more other ports from unauthorized carriers or entities by a third party entity located remotely from the receiver at the gateway”.

The teachings of Pei and Alston, alone or in combination, do not disclose or suggest a subset of a plurality of ports receiving calls from preauthorized carriers or entities and another subset of the plurality of ports receiving calls from unauthorized carriers or entities and means for performing accounting for said incoming calls from unauthorized carriers or entities as recited in claim 15 of the instant application. By way of example, at least one embodiment of the instant application may have “a gateway or system...such that calls arriving on ports 1 or 2

automatically are authorized, and calls arriving on ports 3-5 [which are not preauthorized] are sent to the appropriate third party for AAA or similar functions.” (Page 11, lines 11-14 of the instant application). The cited prior art is silent on such a feature. Thus, claim 15 is patentable over Pei in view of Alston. As claims 29-30 depend from claim 15, and recite additional patentable features, the subject dependent claims are, therefore, likewise patentable.

Claim 26 of the instant application recites, in part, “evaluating a call characteristic of the incoming call to determine whether or not authentication, accounting, and/or authorization (“AAA”) functions were already performed on the incoming call.” (Emphasis added.)

The prior art does not disclose or suggest the subject limitation of claim 26 of the instant application. The OA presents the passage of Alston at col. 6, lines 30-34 and the same sections of Pei used for claim 1, to reject claim 26. Applicant compares the respective sections of Pei and Alston to claim 26 below.

Pei is silent with respect to evaluating an incoming call to determine whether AAA functions have **already been performed** on the call. Turning to Alston, the passage at col. 6, lines 30-34 recites that the application server 50 comprises an AAA server. More specifically, this passage in Alston recites that the application server 50 perform the AAA functions upon receiving a message 42. However, Alston is completely silent regarding the above-quoted evaluation step of claim 26. More generally, Alston does not recite any condition that needs to be satisfied for the AAA application server 50 to perform the AAA functions. Accordingly, the teachings of Pei and Alston, alone or in combination, do not disclose or suggest all the features of claim 26 of the instant application, and claim 26 is patentable. As claims 27-28 depend from claim 26, and recite additional patentable features, the subject dependent claims are, therefore, likewise patentable.

At numbered part 3 of the Office Action, the Examiner has rejected claims 2, 4, 7, 9, 11-14, 17, 19, and 21-22 under 35 U.S.C. § 103(a) as being unpatentable over Pei in view of Alston further in view of Elliott (U.S. Publication No. 2008/0025295, hereafter Elliott). Applicant respectfully traverses the Examiner’s claim rejections.

The reasons for patentability of claims 1, 8 and 16 over Pei in view of Alston as discussed above apply with equal weight here. Elliott does not cure the aforementioned deficiencies of Pei and Alston. Accordingly, claims 1, 8, and 16 are patentable over Pei in view

of Alston and Elliott. As claims 2, 4, 7, 9, 11-14, 17 and 19 depend from claims 1, 8 and 16, and recite additional patentable features, the subject dependent claims are, therefore, likewise patentable.

Claim 21 is recited in the claims section above. Applicant respectfully acknowledges the Examiner's concession on page 4 of the Office Action that the combination of Pei and Alston do not disclose or suggest the use of an "IVR" as recited.

The Examiner alleges that the use of different scripts is old and well known in the art and that this is considered a design choice. Applicant respectfully disagrees with the Examiner.

Applicant's remarks from its June 16, 2010 response explain, at length, why Elliott does not disclose or suggest conveying a different script depending upon an identifier associated with a call associated with said calling apparatus, and operating to contact at least one of plural servers upon receipt of the call, the at least one server being selected based upon said identifier as recited in claim 21 of the instant application, and are incorporated herein by reference. Consequently, Elliott does not disclose or suggest the selection means for conveying different scripts and the single gateway operating to contact at least one of plural servers upon receipt of the call, the at least one server being selected based upon said identifier. Such structural limitations of claim 21 are not old and well known in the art and are not merely a design choice, and the cited prior art does not disclose or suggest the subject limitations of claim 21. As such, Applicant submits that such limitations raise the invention to the level of patentability, and that claim 21 is patentable. As claim 22 depends from claim 21, and recites additional patentable features, the subject dependent claim is, therefore, likewise patentable.

New Claim 31:

New independent claim 31 of the instant application is recited above. Applicant submits that the cited prior art does not disclose or suggest having a plurality of gateways in a network, each comprising more than one port, and assigning to each of the more than one communications carrier in said network a particular port of said originating gateway and said additional gateway, each assigned particular port being different from each other as recited in claim 31 of the instant application. As established above, the cited prior art does not disclose or suggest assigning a

plurality of carriers a particular port of one gateway. Consequently, the cited prior art does not disclose or suggest assigning a plurality of carriers a particular port of two gateways.

Conclusion:

In view of the foregoing, Applicant submits that the instant claims are in condition for allowance. Early and favorable action is earnestly solicited. The fees for the RCE and new claim are included herewith. All fees believed to be due at this time have been paid. In the event there are any fees due and owing in connection with this matter, please charge same, or credit any overpayment to, to our Deposit Account No. 50-4711.

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Respectfully submitted,

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